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6	Attorneys for Complainant	
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8	BEFORE THE	
9	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS	
10	STATE OF CALIFORNIA	
11		
12		2002-2
13	In the Matter of the Accusation Against:	Case No. 2009-3
14	MICHAEL SEAN RODRIGUEZ 10 Homewood Avenue	ACCUSATION
15	Napa, California 94558	
16	Registered Nurse License No. RN 592983	
17	Respondent.	
18		
19	Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:	
20	<u>PARTIES</u>	
21	1. Complainant brings this Accusation solely in her official capacity as the	
22	Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer	
23	Affairs.	
24	License History	
25	2. On or about January 7, 2002, the Board issued Registered Nurse License	
26	Number RN 592983 ("license') to Michael Sean Rodriguez ("Respondent"). The license expired	
27	on June 30, 2003, and has not been renewed.	
28	///	•

STATUTORY PROVISIONS

- 3. Section 2750 of the Business and Professions ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.
- 4. Code section 2764, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.
- 5. Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
 - 6. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct, which includes, but is not limited to, the following:
- (4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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CAUSE FOR DISCIPLINE

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(Out-of-State Discipline)

Respondent is subject to disciplinary action under Code section 2761, 8. 3 subdivision (a)(4), on the grounds of unprofessional conduct, in that Respondent's nursing 4 license has been disciplined by the State of Washington, Department of Health, 5 Nursing Quality Assurance Commission ("Washington Board"). Effective December 6, 2007, in 6 the case entitled, In the Matter of: Michael S. Rodriguez, Credential No. RN 00147746, 7 Case No. 07-07-A-1105RN, pursuant to the Findings of Fact, Conclusions of Law, and Final 8 Order of Default, Respondent's Credential No. RN00147746 was suspended and Respondent 9 was ordered not to submit a petition for reinstatement of credential for at least sixty (60) months 10 from the effective date of the Order. A copy of the Washington Board's Findings of Fact, 11 Conclusions of Law and Final Order of Default is attached as Exhibit A, and is incorporated 12 herein. The circumstances underlying the disciplinary action are that on or about April 17, 2007, 13 Respondent was convicted of Assault in the Second Degree, a class B Felony, in the Superior 14 Court of Washington for Snohomish County, Case No. 07-1-00268-0. 15 /// 16 17 /// 18 /// 19 /// 20 /// /// 21 22 /// 23 /// /// 24 25 /// 26 /// 27 ///

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse License Number RN 592983 issued to Michael Sean Rodriguez;
- 2. Ordering Michael Sean Rodriguez. to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and

Executive Officer

State of California

Complainant

Board of Registered Nursing

Department of Consumer Affairs

3. Taking such other and further action as deemed necessary and proper.

DATED: 7/1/08

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SA2008100811

Exhibit A Washington Board's Findings of Fact, Conclusions of Law and Final Order of Default

STATE OF WASHINGTON DEPARTMENT OF HEALTH NURSING CARE QUALITY ASSURANCE COMMISSION

In the Matter of

Docket No. 07-07-A-1105RN

MICHAEL S. RODRIGUEZ Credential No. RN00147746 FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER OF DEFAULT (Failure to Respond)

Respondent.

This matter comes before the Health Law Judge, Presiding Officer for Final Order of Default. Based on the record, the Presiding Officer, on designation by the Nursing Care Quality Assurance Commission (Commission), now issues the following:

1: FINDINGS OF FACT

- 1.1 On December 11, 2002, the state of Washington issued Respondent a credential to practice as a registered nurse. Respondent's credential expired on May 14, 2007.
- 1.2 The Commission has filed the Declaration of Irene Oplinger, Health Services Consultant with attached exhibits.
- 1.3 On or about April 17, 2007, Respondent was convicted of Assault in the Second Degree, a class B felony, in the Superior Court of Washington for Snohomish County, case no. 07-1-00268-0.
- 1.4 On October 17, 2007, the Commission served Respondent with a copy of the following documents at Respondent's last known address:
 - A. Statement of Charges;
 - B. Notice of Opportunity for Settlement and Hearing;
 - C. Answer to Statement of Charges and Request for Settlement and Hearing;
 - D. Stipulated Findings of Fact, Conclusions of Law, and Agreed Order.

RIGINAL

1.5 The Answer to the Statement of Charges was due in the Adjudicative Service Unit by November 6, 2007.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER OF DEFAULT (Failure to Respond) DOCKET NO. 07-07-A-1105RN

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- 1.6 To date, the Adjudicative Service Unit has not received an answer to the Statement of Charges. On November 16, 2007, the Adjudicative Service Unit issued a Notice of Failure to Respond.
- 1.7 The Commission has no reason to believe Respondent is now or was in active military service, or a dependent of a person in active military service at the time the Statement of Charges was served.

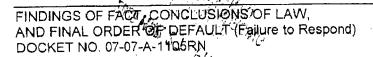
2: CONCLUSIONS OF LAW

- 2.1 The Commission has jurisdiction over Respondent and over the subject matter of this case. RCW 18.130.040.
- 2.2 Respondent did not file a response to the Statement of Charges within the time allowed. WAC 246-11-270(1)(a)(i) or WAC 246-11-270(3). Respondent is in default and the Commission may issue a final order based on the evidence presented. RCW 18.130.090(1) and RCW 34.05.440.
- 2.3 Based upon the Findings of Fact, Respondent has committed unprofessional conduct pursuant to RCW 18.130.180(1) and (17).
- 2.4 Sufficient grounds exist to take disciplinary action against Respondent's credential. RCW 18.130.160 and 18.130.180.

3: ORDER

The COMMISSION ORDERS:

- 3.1 Respondent's credential to practice as a registered nurse in the state of Washington is SUSPENDED.
- 3.2 Respondent shall immediately return all credential to the Commission within ten (10) days of receipt of this Order.
- 3.3 Respondent may not submit a written petition for reinstatement of credential for at least sixty (60) months from the effective date of this Order.
 - 3.4 Respondent shall assume all costs of complying with this Order.
- 3.5 If Respondent violates any provision of this Order in any respect the Commission may take further action against Respondent's credential.



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3.6 The effective date of this Order is that date the Adjudicative Service Unit places the signed order into the U.S. mail. Respondent shall not submit any fees or compliance documents until after the effective date of this Order.

4: NOTICE TO PARTIES

This Order is subject to the reporting requirements of RCW 18.130.110, Section 1128E of the Social Security Act, 45 CFR Part 61, and any other applicable interstate/national reporting requirements. If adverse action is taken, it must be reported to the Healthcare Integrity Protection Data Bank.

Either Party may file a **petition for reconsideration**. RCW 34.05.461(3); 34.05.470. The petition must be filed within ten (10) days of service of this Order with:

Adjudicative Service Unit PO Box 47879 Olympia, WA 98504-7879

and a copy must be sent to:

State of Washington
Department of Health
Nursing Care Quality Assurance Commission
PO Box 47864
Olympia WA 98504-7864

The petition must state the specific grounds upon which reconsideration is requested and the relief requested. The petition for reconsideration is considered denied twenty (20) days after the petition is filed if the Adjudicative Service Unit has not responded to the petition or served written notice of the date by which action will be taken on the petition.

A petition for judicial review must be filed and served within thirty (30) days after service of this Order. RCW 34.05.542. The procedures are identified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. A petition for reconsideration is not required before seeking judicial review. If a petition for reconsideration is filed, however, the thirty (30) day period will begin to run upon the resolution of that petition. RCW 34.05.470(3)...

The Order remains in effect even if a petition for reconsideration or petition for review is filed. "Filing" means actual receipt of the document by the Adjudicative Service Unit. RCW 34.05.010(6). This Order was "served" upon you on the day it was deposited in the United States mail. RCW 34.05.010(19).

DATED: December 6, 2007.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
NURSING CARE QUALITY ASSURANCE
COMMISSION

HEALTH LAW JUDGE

PRESENTED BY:

KAREN CAILLE, WSBA # 31351

DEPARTMENT OF HEALTH STAFF ATTORNEY

DATE

FOR INTERNAL USE ONLY

PROGRAM NO. 2007-01-0027RN

FINDINGS OF FACT CONCLUSIONS OF LAW, AND FINAL ORDER OF DEFAULT (Failure to Respond) DOCKET NO 297-07-A-1105RN

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